

Application No. 09/474,043
Attorney Docket No. 141509.00000

REMARKS

Reconsideration of the present application is respectfully requested in light of the above amendments to the application and the following remarks.

A Request for Continued Examination and a Petition for Two Months Extension of Time are filed herewith with the appropriate fee.

Regarding the Claims

Claims 33, 35-42, 46-58, and 61-64 have been amended and Claims 34 and 43-45 have been canceled. Currently pending in the application, therefore, are Claims 33, 35-42, 46-64, of which Claims 33, 57, 58, and 60-64 are independent. No new matter has been added.

Minor amendments have been made to the claims to correct dependency. Claims 33, 35-42, 47-56, and 61-64 have been amended to delete "film". Claim 57 has been amended to add the step of stretching the film and to further characterize the breathable cellular elastomer material as being retractable by at least 75% of elongation. Claim 58 has been amended to add the step of stretching the foam material and to further characterize the breathable cellular elastomer material as being retractable by at least 75% of elongation.

Claims 33-45, 52-57, and 61-64 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Berry in view of Palomo et al.

Claims 58-60 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Berry in view of Palomo et al. and Wang as applied to claims 33-45, 52-57 and 61-64 above, and further in view of Shah et al.

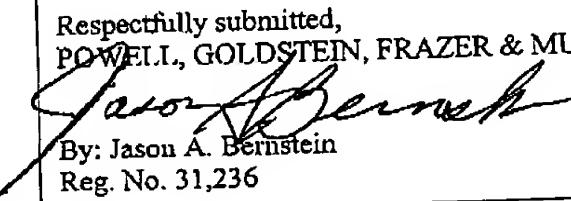
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Claims 46-47 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Berry in view of Palomo et al. and Wang as applied to claims 33-45, 52-57 and 61-64 above, and further in view of Cheong.

Berry is cited as teaching the use of an elastomeric film. Palomo et al. teaches foaming agents for films. Berry and Palomo et al., singly, together or in combination with the remaining cited references do not disclose, teach or suggest the filament material as claimed.

Berry, as shown in Example 1 (col. 9, line 1-32), does not stretch prior to lamination. The same is true of Palomo. While Berry teaches extensibility (col. 2, lines 43-48) this is not the same as being elastic. A feature of the material of the present invention is that it not only stretches, but can retract by at least 75%. Claims 57-58 have been amended to show the stretching step (see the application as filed p. 22, lines 26-28 for support). Method Claims 57-58 have been amended to include the retractability of the material formed (see the application as filed, p. 8, lines 1-8 for support). None of the cited art, taken alone or in combination, discloses, teaches or suggests a material being retractable by at least 75% of elongation.

Therefore, Applicant submits that the amended claims overcome the Examiner's rejections and objections and are in condition for allowance, and Applicant respectfully requests the same. Should the Examiner have questions or suggestions which will put this application in line for allowance, he is requested to contact the undersigned attorney.

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